REMARKS

Claims 24, 25, 27-31, 50 and 52-59 are pending. By this Amendment, claims 24, 51, 54 and 55 are amended to more particularly point out Applicants' claimed invention, and claims 26 and 51 are canceled. Claims 24 and 50 have been amended to incorporate features of claims 26 and 51, respectively. Applicants do not intend to narrow the scope of claims 54 and 55 by the clarifying amendments.

Claim Objection

The Examiner objected to claims 54 and 55, asserting that the knee and elbow are integral components of the claim. Applicants have amended claims 54 and 55 for clarity. Applicants thank the Examiner for requesting this clarification.

Rejections Under 35 U.S.C. § 112

The Examiner rejected claims 50-59 under 35 U.S.C. § 112, second paragraph as being indefinite. In particular, the Examiner noted a minor inconsistency in terminology usage within claim 50. This inconsistency has been corrected. In view of the clarifying amendments, Applicants respectfully request withdrawal of the rejection of claims 50-59 under 35 U.S.C. § 112, second paragraph as being indefinite.

Rejection Over Zimmerman

The Examiner rejected claims 24, 26, 27, 29-31m 50-52 and 56-57 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,988,981 to Zimmerman (the Zimmerman patent). Applicants note that the Office Action incorrectly listed the patent number as 4,986,981. While the Examiner asserts that the Zimmerman patent anticipates Applicants' claimed invention, Applicants maintain that the Zimmerman patent does not prima facie anticipate

Applicants' claimed invention. Applicants respectfully request reconsideration of the rejections based on the following comments.

The anticipate a claim, a reference must disclose all of the claim elements. With respect to claim 24 and claims depending from claim 24, Applicants could not identify in the Zimmerman patent the "flexing of a first joint of a patient such that a cursor on a display moves to reach **a target position on the display at a selected, predetermined time.**" Furthermore, with all due respect, the Zimmerman patent describes element 48 as a "decoder chip" and not as a digital microprocessor. As specified in Applicants' specification, for example, at page 41, lines 6-8, a portable control is a hand held unit. Therefore, computer/controller 16 of the Zimmerman patent is not portable as specified by Applicants' specification. Since the Zimmerman patent does not disclose either the movement of a cursor to a target position at a selected time or a digital microprocessor associated with a portable controller, the Zimmerman patent does not anticipate claim 24 or claims depending from 24.

With respect to claim 50 and claims depending from claim 50, as described above, the Zimmerman patent does not disclose a "portable" controller as described and claimed by Applicants. Thus, the Zimmerman patent does not prima facie anticipate claim 50 or any claims depending from claim 50.

In view of the above discussion, Applicants respectfully request withdrawal of the rejection of claims 24, 26, 27, 29-31m 50-52 and 56-57 under 35 U.S.C. 102(b) as being anticipated by the Zimmerman patent. Applicants do not comment on other issues raised with respect to the disclosure of the Zimmerman patent, although they do not acquiesce in these assertions, since they are presently moot.

Rejection Over Walton

The Examiner rejected claims 24, 50, 53, 56 and 59 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 5,989,157 to Walton (the Walton patent). To advance prosecution of the application, Applicants have amended claims 24 and 50 to incorporate features from claims 26 and 51, respectively. As amended, revised claims 24 and 50 are clearly not prima facie anticipated by the Walton patent. Applicants respectfully request withdrawal of the rejection of claims 24, 50, 53, 56 and 59 under 35 U.S.C. 102(e) as being anticipated by Walton patent. Applicants do not comment on other issues raised with respect to the disclosure of the Walton patent, although they do not acquiesce in these assertions, since they are presently moot.

Rejections Over Zimmerman and Kramer

The Examiner rejected claims 27, 31 and 57-58 under 35 U.S.C. 103(a) as being unpatentable over the Zimmerman patent in view of U.S. Patent 6,059,506 to Kramer (the Kramer patent). As noted above, the Zimmerman patent is deficient with respect to both independent claims 24 and 50. The Kramer patent does not make up for any of the deficiencies of the Zimmerman patent with respect to Applicants' claimed invention. Therefore, the combined disclosures of the Zimmerman patent and the Kramer patent do not render Applicants' claimed invention prima facie obvious. Applicants do not comment on other issues raised with respect to the disclosure of the Kramer patent, although they do not acquiesce in these assertions, since they are presently moot. Applicants respectfully request withdrawal of the rejection of claims 27, 31 and 57-58 under 35 U.S.C. 103(a) as being unpatentable over the Zimmerman patent in view of the Kramer patent.

Rejections Over Zimmerman and Pitkanen

The Examiner rejected claim 28 under 35 U.S.C. 103(a) as being unpatentable over the Zimmerman patent in view of U.S. Patent 4,556,216 to Pitkanen (the Pitkanen patent). Above, Applicants have described the deficiencies of the Zimmerman patent with respect to independent claim 24. The Pitkanen patent does not make up for the deficiencies of the Zimmerman patent with respect to claim 24 and claims depending from claim 24. Therefore, the combined disclosures of the Zimmerman patent and the Pitkanen patent do not render claim 28 prima facie obvious. Applicants do not comment on other issues raised with respect to the disclosure of the Pitkanen patent, although they do not acquiesce in these assertions, since they are presently moot. Applicants respectfully request withdrawal of the rejection of claim 28 28 under 35 U.S.C. 103(a) as being unpatentable over the Zimmerman patent in view of the Pitkanen patent.

Rejection Over Stark and Walton

The Examiner rejected claims 24-26 and 51-52 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,823,975 to Stark et al. (the Stark Patent) in view of the Walton patent. The Examiner noted that the Stark patent does not disclose the movement of a cursor. With respect to the combination of the Stark patent and the Walton patent, there is no motivation to combine these references as suggested by the Examiner. The Walton patent is directed to "large muscle physical exercise" (abstract) and exercise analogous to that obtained at a health club (for example, column 1). On the other hand, the Stark patent is generally directed to an orthopedic restraining device for the treatment of an individual after an injury (see, for example, the Background). Since the devices are primarily directed to different application, there is no motivation to combine their features. Thus, the combined disclosures of the Stark patent and the Walton patent do not render Applicants' invention prima facie obvious. Applicants respectfully

request withdrawal of the rejection of claims 24-26 and 51-52 under 35 U.S.C. 103(a) as being unpatentable over the Stark Patent in view of the Walton patent. Applicants do not comment on other issues raised with respect to the disclosure of the Stark patent, although they do not acquiesce in these assertions, since they are presently moot.

Rejection of Claims 54 and 55 Over Walton

The Examiner rejected claims 54 and 55 under 35 U.S.C. 103 as being unpatentable over the Walton patent. However, the deficiencies of the Walton patent with respect to independent claim 50 have been discussed above. For the same reasons, the Walton patent does not render claims 54 and 55 prima facie obvious. Applicants do not comment on other issues raised with respect to the disclosure of the Walton patent, although they do not acquiesce in these assertions, since they are presently moot. Applicants respectfully request withdrawal of the rejection of claims 54 and 55 under 35 U.S.C. 103 as being unpatentable over the Walton patent.

CONCLUSIONS

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,

Peter S. Dardi

Peter S. Dardi, Ph.D.
Registration No. 39,650

Customer No. 24113
Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402-2100
Telephone: (612) 349-5746